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Attorneys for Defendant  
CITIBANK, N.A.

COPY

BY: \_\_\_\_\_

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
RIVERSIDE

2012 JUL 27 PM 2:39

FILED

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOAN FRANK,

Plaintiff,

vs.

CITIBANK, NATIONAL  
ASSOCIATION, an FDIC insured  
corporation and DOES 1 through 100  
inclusive,

Defendants.

**ED CV 12 No. 01250**

NOTICE OF REMOVAL

(Pursuant to 28 U.S.C. §§ 1331,  
1441(b), 1446 – Federal Question)

VAP  
VBK

1 **TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL**  
 2 **DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE THAT**, pursuant to 28 U.S.C. §§ 1331, 1441(b),  
 4 and 1446, defendant Citibank, N.A. ("Citibank") hereby removes the action entitled  
 5 Joan Frank v. Citibank, National Association, Riverside County Superior Court Case  
 6 No. RIC 1209859 (the "Action"), to the United States District Court for the Central  
 7 District of California, on the following grounds:

8 1. Removal Is Timely. Plaintiff Joan Frank ("Plaintiff") served Citibank  
 9 with the Summons and Complaint in the Action on June 29, 2012. This Notice of  
 10 Removal has been filed within thirty days of service of the Complaint on Citibank  
 11 and is therefore timely under 28 U.S.C. § 1446(b). Copies of the Summons and  
 12 Complaint, as well as the Civil Case Cover Sheet, Notice of Assignment to  
 13 Department for Case Management Purposes and Case Management Conference, and  
 14 ADR Information Package, served on Citibank in the Action are attached hereto as  
 15 composite Exhibit A. On July 26, 2012, Citibank filed an Answer and Affirmative  
 16 Defenses to the Complaint, a copy of which is attached hereto as Exhibit B.

17 2. This Court Has Removal Jurisdiction Over This Action. The Action is a  
 18 civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331 and  
 19 is one which Citibank may remove to this Court pursuant to the provisions of 28  
 20 U.S.C. § 1441(b) in that Plaintiff alleges violations of the federal Fair Credit  
 21 Reporting Act, 15 U.S.C. § 1681, et seq. (the "FCRA") (see Complaint, ¶¶ 22-30),  
 22 claims that are created by, and arise under, federal law. To the extent any other  
 23 claims in the Action arise under state law, including, but not limited to, Plaintiff's  
 24 claims for alleged violation of California's Consumer Credit Reporting Agencies  
 25 Act, Cal. Civ. Code § 1785, et seq. (the "CCRAA"), and California Business and  
 26 Professions Code § 17200, et seq. (the "UCL"), supplemental jurisdiction over such  
 27 claims exists pursuant to 28 U.S.C. §§ 1367 and 1441(c).

28 3. No Other Defendant's Consent Is Required For Removal. No other  
 defendant is named in the Action, and therefore, no other entity's consent is required

1 for removal. Accordingly, the Action is properly removed pursuant to 28 U.S.C. §  
2 1446(a) & (b).

3 4. Notice Has Been Effected. A copy of this Notice of Removal is being  
4 filed with the Superior Court for the State of California for the County of Riverside  
5 and concurrently served on Plaintiff's counsel of record.

6  
7 Dated: July 27, 2012

STROOCK & STROOCK & LAVAN LLP  
JULIA B. STRICKLAND  
MARCOS D. SASSO  
ALEXANDRIA KACHADOORIAN

8  
9  
10 By:   
11 Alexandria Kachadoorian

12 Attorneys for Defendant  
13 CITIBANK, N.A.  
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STROOCK & STROOCK & LAVAN LLP  
2029 Century Park East, Suite 1800  
Los Angeles, California 90067-3086

# **Exhibit A**

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

Citibank, National Association an FDIC insured corporation and DOES  
1 through 100 inclusive

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Joan Frank

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

JUN 28 2012

M. Preciado

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una corte o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte lo podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos arrendos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desahogar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Riverside

4050 Main Street  
Riverside, CA 92501

CASE NUMBER:  
(Número del caso):

**RIC 1209859**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Elliot Gale, 333 West San Carlos Street, Suite 1750 San Jose, CA 95110, 1-408-279-2288

DATE: June 28, 2012  
(Fecha)

JUN 28 2012

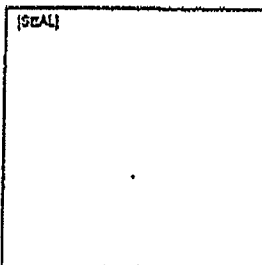
Clerk, by  
(Secretario)

**M. Preciado**

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): **Citibank, National Association an FDIC insured corporation**  
under: ☒ CCP 41B.10 (corporation) ☐ CCP 41B.60 (minor)  
☐ CCP 41B.20 (defunct corporation) ☐ CCP 41B.70 (conservator)  
☐ CCP 41B.40 (association or partnership) ☐ CCP 41B.80 (authorized person)  
☐ other (specify):

4. ☐ by personal delivery on (date):

1 SCOTT J. SAGARIA (BAR # 217981)  
2 Ssagaria@sagarialaw.com  
3 ELLIOT W. GALE (BAR #263326)  
4 Eegale@sagarialaw.com  
5 SAGARIA LAW, P.C.  
333 West San Carlos Street, Suite 1750  
San Jose, CA 95110  
408-279-2288 ph  
408-279-2299 fax

6 Attorneys for Plaintiff

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

JUN 28 2012

M. Preciado

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF RIVERSIDE  
10

11 CASE NO.: 1209859  
12 RIC

13 COMPLAINT FOR DAMAGES:

14 JOAN FRANK,

15 Plaintiff,

16 v.

17 CITIBANK, NATIONAL ASSOCIATION  
18 an FDIC insured corporation and DOES 1  
19 through 100 inclusive,

20 Defendants.

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit Reporting Agencies Act;
3. Violation of California Unfair Business Practices Act;

BY FAX

21  
22 COMES NOW Plaintiff JOAN FRANK, an individual, based on information and belief, to allege  
23 as follows:  
24  
25  
26  
27  
28

COMPLAINT-1

### INTRODUCTION

1. This action seeks redress for the unlawful and deceptive practices committed by the Defendants in connection with their inaccurate reporting of Plaintiff's discharged debt. In particular, Defendants' conduct involves improperly continuing to report Plaintiff's account derogatory "charge off" instead of discharged in bankruptcy, after receiving notice of Plaintiff's dispute from Transunion. Defendant's also failed to report the debt as disputed. Plaintiff seeks monetary and declaratory relief based on violations of Fair Credit Reporting Act, 15 U.S.C. 1681 et. seq., and California Consumer Credit Reporting Act, California Civil Code §1785.1 et seq. Additional causes of actions are stated for violations of the California Business and Professions Code 17200.

### JURISDICTION AND VENUE

2. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, fully set forth herein.
3. Plaintiff, Joan Frank (hereinafter "Plaintiff"), is an individual and currently resides in the county of Riverside, California.
4. This venue is proper pursuant to California Code of Civil Procedure § 395.5.
5. This Court has jurisdiction over Plaintiff's allegations pursuant to California Code of Civil Procedure § 410.10 et seq.
6. Plaintiff is a natural person and competent adult who at all relevant times in this Complaint resided in the State of California.
7. Defendant, Citibank, National Association (hereinafter "Creditor") is located at 701 East 60<sup>th</sup> Street North, Sioux Falls SD 57104. Creditor collects debts on its own behalf throughout the county of Riverside.
8. Plaintiff is unaware of the true names and capacities of Defendants DOES 1 through 100, inclusive. Plaintiff is informed and believes and thereon alleges that each fictitious Defendant was in some way responsible for the matters and things complained of herein, and in some fashion, has legal responsibility therefore. When the exact nature and identity of each fictitious Defendant's responsibility for the matters and things

1 herein alleged are ascertained by Plaintiff, Plaintiff will seek to amend this Complaint  
 2 and all proceedings to set forth the same, pursuant to California Code of Civil  
 3 Procedure 474.

4 9. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned  
 5 herein, each of Defendant is, and at all relevant times herein was, the agent, employee,  
 6 and alter ego of each of the remaining Co-Defendants, and in committing the acts  
 7 herein alleged, was acting in the scope of their authority as such agents, employees, or  
 8 alter egos and with the permission and consent of the remaining Co-Defendants.

#### 10 PRE-LITIGATION CLAIM FILINGS

11 10. On or about April 4, 2012 Plaintiff sent Transunion a written notice disputing  
 12 Creditor's improper reporting of Plaintiff's account as "charged off" instead of  
 13 discharged in bankruptcy. Pursuant to Section 1681i(a)(2) of the Fair Credit Reporting  
 14 Act, Transunion provided notice to Creditor of Plaintiff's dispute. After receiving  
 15 notice of Plaintiff's allegations, Creditor verified that it received notice of Plaintiff's  
 16 from Transunion and continued inaccurately reporting the derogatory delinquent  
 17 notation.

#### 18 GENERAL ALLEGATIONS

19 11. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and  
 20 every paragraph above, as though fully set forth herein.

21 12. On May 2, 2011 Plaintiff filed a joint voluntary Chapter 7 bankruptcy petition in the  
 22 United States Bankruptcy Court for the Central District of California.

23 13. The § 341(a) meeting of creditors was held in Riverside, California on or about June  
 24 16, 2011.

25 14. In the Schedules filed with the petition in this case and on the master mailing matrix  
 26 filed with the Clerk of this Court, an unsecured debt was listed on Schedule F in favor  
 27 of Creditor in the amount of \$1,149.00 (hereinafter "Debt").  
 28

1 15. On August 16, 2011 Plaintiff was granted a discharge of all dischargeable debts  
 2 pursuant to 11 U.S.C. § 727. Creditor was noticed by electronic transmission of  
 3 Plaintiff's discharge on August 16, 2011. Since Plaintiff never re-affirmed Creditor's  
 4 debt during bankruptcy, Plaintiff alleges that this Discharge included the debt to  
 5 Creditor.

6 16. On April 4, 2012 Plaintiff sent written notice to Transunion specifically disputing  
 7 Creditor's inaccurate reporting of Plaintiff's account as "charged off" after Plaintiff  
 8 received a discharge in bankruptcy.

9 17. On May 4, 2012 Plaintiff received a copy of her Service 1<sup>st</sup> credit report a compilation  
 10 of credit reports from Transunion, Equifax, and Experian in order to verify that the  
 11 inaccuracies on Plaintiff's credit report were corrected. Creditor continued reporting to  
 12 Transunion Plaintiff's account as charged off rather than discharged in bankruptcy. In  
 13 addition Creditor failed to report the debt as disputed even after receiving notice of  
 14 Plaintiff's allegations.

15 18. To date, Creditor refuses to correct Plaintiff's credit report despite being noticed of the  
 16 original bankruptcy and re-noticed of its inaccurate reporting from Transunion.

17 19. The actions of Creditor as alleged herein are acts in violation of the Fair Credit  
 18 Reporting Act, 15 U.S.C. § 1681s-2(b).

19 20. The actions of Creditors as alleged herein are acts in violation of the consumer credit  
 20 reporting agencies act California Civil Code § 1785.25(a).

21 21. The actions of Creditors as alleged herein are acts in violation of the California  
 22 Business and Professions Code § 17200.

23 **FIRST CAUSE OF ACTION**  
 24 (Violation Of Fair Credit Reporting Act  
 25 15 U.S.C. § 1681s-2(b))  
 (Against Defendant Creditor and Does 1-100)

26 22. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and  
 27 every paragraph above, as though fully set forth herein.  
 28

1 23. Creditor, in the course of regular business, reports information to credit reporting  
2 agencies.

3 24. Plaintiff promptly disputed Creditor's inaccurate reporting with Transunion.  
4 Transunion sent notice of Plaintiff's dispute to Creditor pursuant to Section 1681i(a)(2)  
5 of the Fair Credit Reporting Act. Creditor was thereafter under a duty to reasonably  
6 investigate Plaintiff's dispute and to modify, delete, or block the information if the  
7 investigation finds the information is incomplete or inaccurate pursuant to section 15  
8 U.S.C. 1681s-2(b)(1)(A) & (E).

9 25. Plaintiff is informed that Creditor violated 15 U.S.C. 1681s-2(b)(1)(A) by failing to  
10 reasonably investigate Plaintiff's dispute after receiving notice from Transunion.  
11 Specifically, Plaintiff is informed that Creditor, after receiving notice of Plaintiff's  
12 dispute from Transunion, should have discovered from its records, including the two  
13 notices sent from the bankruptcy noticing center, that Plaintiff's account was  
14 discharged in bankruptcy. Because Plaintiff was no longer personally obligated to pay  
15 the preexisting debt with Creditor, Creditor should not have reported the account as  
16 charged off.

17 26. Plaintiff is informed that Creditor violated 15 U.S.C. 1681s-2(b)(1)(E) by failing to  
18 discover and remove the derogatory delinquent notation on Plaintiff's credit report.  
19 Specifically, Creditor should have reported to Transunion that Plaintiff's credit report  
20 should indicate that Plaintiff's account was discharged in bankruptcy. Plaintiff's  
21 account should also have been reported as disputed.

22 27. Creditor's failure to correct the previously disclosed inaccuracies on Plaintiff's credit  
23 report was intentional and in reckless disregard of its duty to refrain from reporting  
24 inaccurate information. Consequently, creditor willfully and negligently failed to  
25 comply with its duty to investigate Plaintiff's dispute under 15 U.S.C. 1681(n) & (o).

26 28. As a direct and proximate result of Creditor's willful and untrue communications,  
27 Plaintiff has suffered actual damages including but not limited to reviewing credit  
28 reports from all three consumer reporting agencies, traveling to and from Plaintiff's

1 counsel's office, sending demand letters, continued impairment to her credit score, and  
2 such further expenses in an amount to be determined at trial.

3 29. As a further direct and proximate result of Creditor acts state herein, Plaintiff incurred  
4 pain and suffering, was impeded in seeking necessary products and services from  
5 vendors and additional credit from other credit agencies.

6 30. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

7  
8 **SECOND CAUSE OF ACTION**

9 (Violation Of Consumer Credit Reporting Agencies Act  
10 California Civil Code § 1785.25(a)  
11 (Against Defendants Creditor and Docs 1-100)

12 31. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and  
13 every paragraph above, as though fully set forth herein.

14 32. Creditor, in the ordinary course of business, regularly and on a routine basis furnishes  
15 information to one or more consumer credit reporting agencies.

16 33. Creditor intentionally and knowingly reported inaccurate and false information  
17 regarding delinquency in payment after Plaintiff received a discharge in bankruptcy to  
18 credit reporting agencies in violation of California Civil Code § 1785.25(a).

19 34. Creditor should have discovered through investigation that the reported information of  
20 Plaintiff's account was inaccurate.

21 35. Creditor failed to correct inaccurate information provided to the agencies as described  
22 hereinabove in violation of California Civil Code § 1785.25(a).

23 36. Creditor's communications of false information, and repeated failures to investigate,  
24 and correct their inaccurate information and erroneous reporting were done knowingly,  
25 intentionally, and in reckless disregard for their duties and Plaintiff's rights.

26 37. As a direct and proximate result of Creditors willful and untrue communications,  
27 Plaintiff has suffered actual damages including but not limited to reviewing credit  
28 reports from all three consumer reporting agencies, traveling to and from Plaintiff's

1 counsel's office, sending demand letters, continued impairment to her credit score, and  
2 such further expenses in an amount to be determined at trial.

3 38. As a further direct and proximate result of Creditor acts state herein, Plaintiff incurred  
4 pain and suffering, was impeded in seeking necessary products and services from  
5 vendors and additional credit from other credit agencies.

6 39. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

7  
8 **THIRD CAUSE OF ACTION**

9 (Unfair Business Practices Act  
10 California Business and Professions Code § 17200)  
11 (Against Defendant Creditor and Docs 1-100)

12 58. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and  
13 every paragraph above, as though fully set forth herein.

14 59. Plaintiff brings this action in individual capacity and on behalf of the general public.

15 60. Creditor at all times relevant to this Complaint, was engaged in the business of  
16 collections and providing services on credit to qualified applicants.

17 61. Commencing on or about January 18, 2011 and continuing to the present, Creditor  
18 committed the acts of unfair practices as defined by Business and Professions Code §  
19 17200 and described in the above stated Causes of Action.

20 62. Creditor's misleading and unfair practice within the meaning of Business and  
21 Professions Code § 17200 specifically includes Creditor's continued inaccurate  
22 reporting after receiving notice of Plaintiff's dispute in violation of California Civil  
23 Code § 1785.25(a).

24 63. These unfair and unlawful business practices of Creditor are likely to continue and  
25 therefore will continue to injure Plaintiff and mislead the public by inaccurate record  
26 keeping, failure to correct inaccuracies and erroneous dissemination of inaccurate  
27 information, and present a continuing threat to the public.

28 65. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- a. For preliminary and permanent injunctive relief to stop Defendants from engaging in the conduct described above;
- b. Award \$10,000 in statutory and actual damages pursuant to 15 U.S.C. § 1681n and California Civil Code § 1785.31;
- c. Award punitive damages in an amount to deter further unlawful conduct pursuant to 15 U.S.C. § 1681n; and California Civil Code § 1785.31
- d. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. § 1681n & o; and California Civil Code § 1785.31;
- e. For determination by the Court that Creditor's policies and practices are unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; California Business and Professions Code § 17200, et seq.; and California Civil Code §§ 45, 1785.25(g), et seq.;
- f. For determination by the Court that Creditor's policies and practices are unlawful and in negligent violation of 15 U.S.C. § 1681o;
- g. For such other and further relief as the court deems appropriate under the circumstances.

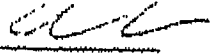
**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial of this matter by jury.

SAGARIA LAW, P.C.

Dated: June 28, 2012

By:

  
Elliot Gale, Esq.  
Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>SCOTT J. SAGARIA (BAR #217981)</b> <b>ELLIOT W. GALE (BAR #263326)</b> <b>SAGARIA LAW, P.C.</b> <b>333 West San Carlos Street, Suite 1750 San Jose, CA 95110</b> TELEPHONE NO.: 408-279-2288 FAX NO.: 408-279-2299 ATTORNEY FOR (Name): <b>Joan Frank</b>		CM-010 FOR COURT USE ONLY		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Riverside</b> STREET ADDRESS: <b>4050 Main Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Riverside, CA 9250</b> BRANCH NAME: <b>Civil</b>		CASE NUMBER: <b>1209859</b> JUDGE: DEPT: <b>BY FAX</b>		
CASE NAME: <b>Frank v. Citibank, National Association</b>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 5px;"> <b>CIVIL CASE COVER SHEET</b>  <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)    <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)         </td> <td style="width: 33%; padding: 5px;"> <b>Complex Case Designation</b>  <input type="checkbox"/> Counter    <input type="checkbox"/> Joinder          Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)       </td> <td style="width: 33%;"></td> </tr> </table>			<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)			

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
 

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) <b>Non-PIPD/WD (Other) Tort</b> <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (38) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIPD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
 

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court f. <input type="checkbox"/> Substantial postjudgment judicial supervision
--	--
3. Remedies sought (check all that apply): a. ☒ monetary    b. ☒ nonmonetary; declaratory or injunctive relief    c. ☒ punitive
4. Number of causes of action (specify): **Three**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **June 28, 2012**  
 Elliot Gale

(TYPE OR PRINT NAME)	(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)
----------------------	--

**NOTICE**

• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.

• File this cover sheet in addition to any cover sheet required by local court rule.

• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.

• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use  
 Judicial Council of California  
 CM-010 (Rev. July 1, 2001)

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 3.220, 3.220, 3.400-3.403, 3.740;  
 Cal. Standards of Judicial Administration, sdo 3.10  
 www.courtinfo.ca.gov

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

<b>Auto Tort</b>	<b>Contract</b>	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)</b>
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (08)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental Lease	Construction Defect (10)
	Contract (not unlawful detainer or wrongful eviction)	Claims Involving Mass Tort (40)
	Contract/Warranty Breach—Seller	Securities Litigation (28)
	Plaintiff (not fraud or negligence)	Environmental/Toxic Tort (30)
	Negligent Breach of Contract/Warranty	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
<b>Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b>	Other Breach of Contract/Warranty	<b>Enforcement of Judgment</b>
Asbestos (04)	Collections (e.g., money owed, open bank accounts) (09)	Enforcement of Judgment (20)
Asbestos Property Damage	Collections Case—Seller Plaintiff	Abstract of Judgment (Out of County)
Asbestos Personal Injury/Wrongful Death	Other Promissory Note/Collections Case	Confession of Judgment (non-domestic relations)
Product Liability (not asbestos or toxic/environmental) (24)	Insurance Coverage (not provisionally complex) (18)	Sister State Judgment
Medical Malpractice (45)	Auto Subrogation	Administrative Agency Award (not unpaid taxes)
Medical Malpractice—Physicians & Surgeons	Other Coverage	Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Professional Health Care Malpractice	<b>Other Contract (37)</b>	Other Enforcement of Judgment Case
<b>Other PIPD/WD (23)</b>	Contractual Fraud	
Premises Liability (e.g., slip and fall)	Other Contract Dispute	<b>Miscellaneous Civil Complaint</b>
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	<b>Real Property</b>	RICO (27)
Intentional Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Other Complaint (not specified above) (42)
Negligent Infliction of Emotional Distress	Wrongful Eviction (33)	Declaratory Relief Only
Other PIPD/WD	Other Real Property (e.g., quiet title) (26)	Injunctive Relief Only (non-harassment)
<b>Non-PIP/WD (Other) Tort</b>	Writ of Possession of Real Property	Mechanics Lien
Business Tort/Unfair Business Practices (07)	Mortgage Foreclosure	Other Commercial Complaint Case (non-tort/non-complex)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Quiet Title	Other Civil Complaint (non-tort/non-complex)
Defamation (e.g., slander, libel) (13)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	<b>Miscellaneous Civil Petition</b>
Fraud (16)	<b>Unlawful Detainer</b>	Partnership and Corporate Governance (21)
Intellectual Property (19)	Commercial (31)	Other Petition (not specified above) (43)
Professional Negligence (25)	Residential (32)	Civil Harassment
Legal Malpractice	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Workplace Violence
Other Professional Malpractice (not medical or legal)	<b>Judicial Review</b>	Elder/Dependent Adult Abuse
<b>Other Non-PIP/WD Tort (36)</b>	Asset Forfeiture (05)	Election Contests
<b>Employment</b>	Petition Re: Arbitration Award (11)	Petition for Name Change
Wrongful Termination (39)	Writ of Mandate (02)	Petition for Relief From Lapse Claim
Other Employment (15)	Writ—Administrative Mandamus	Other Civil Petition
	Writ—Mandamus on Limited Court Case Matter	
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Page 2 of 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE  
4050 Main Street  
Riverside, CA 92501  
www.riverside.courts.ca.gov

NOTICE OF ASSIGNMENT TO DEPARTMENT FOR CASE MANAGEMENT PURPOSES  
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

FRANK VS CITIBANK NA

CASE NO. RIC 1209859

This case is assigned to the Honorable Commissioner Pamela A Thatcher in Department 04 for case management purposes. The Case Management Conference is scheduled for 01/03/13 at 8:30 in Department 04.

Case is Assigned to Department 02 for Law and Motion Purposes.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6(a)(2) shall be filed in accordance with that section.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing notice on this date, by depositing said copy as stated above.

Dated: 06/28/12

Court Executive Officer/Clerk

M. Preciado

By:

MARIA M PRECIADO, Deputy Clerk

ac:cmc;cmcb;cmch;cmct;cmcc  
cmccb;cmcch;cmcct



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

[www.riverside.courts.ca.gov](http://www.riverside.courts.ca.gov)

Self-represented parties: <http://riverside.courts.ca.gov/selfhelp/self-help.shtml>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) –  
INFORMATION PACKAGE**

(California Rules of Court, Rule 3.221; Local Rule, Title 4)

**\*\*\* THE PLAINTIFF MUST SERVE THIS INFORMATION PACKAGE  
ON EACH PARTY WITH THE COMPLAINT. \*\*\***

**What is ADR?**

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. The main types are mediation, arbitration and settlement conferences.

**Advantages of ADR:**

- ✧ Faster: ADR can be done in a 1-day session within months after filing the complaint.
- ✧ Less expensive: Parties can save court costs and attorneys' and witness fees.
- ✧ More control: Parties choose their ADR process and provider.
- ✧ Less stressful: ADR is done informally in private offices, not public courtrooms.

**Disadvantages of ADR:**

- ✧ No public trial: Parties do not get a decision by a judge or jury.
- ✧ Costs: Parties may have to pay for both ADR and litigation.

**Main Types of ADR:**

**Mediation:** In mediation, the mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to create a settlement agreement that is acceptable to everyone. If the parties do not wish to settle the case, they go to trial.

**Mediation may be appropriate when the parties:**

- ✧ want to work out a solution but need help from a neutral person; or
- ✧ have communication problems or strong emotions that interfere with resolution; or
- ✧ have a continuing business or personal relationship.

**Mediation is not appropriate when the parties:**

- ✧ want their public "day in court" or a judicial determination on points of law or fact;
- ✧ lack equal bargaining power or have a history of physical/emotional abuse.

**Arbitration:** Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration the arbitrator's decision is final; there is no right to trial. In "non-binding" arbitration, any party can request a trial after the arbitrator's decision. The court's mandatory Judicial Arbitration program is non-binding.

**Arbitration may be appropriate when the parties:**

- ✧ want to avoid trial, but still want a neutral person to decide the outcome of the case.

**Arbitration is not appropriate when the parties:**

- ✧ do not want to risk going through both arbitration and trial (Judicial Arbitration)
- ✧ do not want to give up their right to trial (binding arbitration)

RI-ADR1  
Rev. 7/26

**Settlement Conferences:** Settlement conferences are similar to mediation, but the settlement officer usually tries to negotiate an agreement by giving strong opinions about the strengths and weaknesses of the case, its monetary value, and the probable outcome at trial. Settlement conferences often involve attorneys more than the parties and often take place close to the trial date.

**RIVERSIDE COUNTY SUPERIOR COURT ADR REQUIREMENTS**

ADR Information and forms are posted on the ADR website: <http://riverside.courts.ca.gov/adr/adr.shtml>

**General Policy:**

Parties in most general civil cases are expected to participate in an ADR process before requesting a trial date and to participate in a settlement conference before trial. (Local Rule 4.0000)

**Court-Ordered ADR:**

Certain cases valued at \$50,000 or under may be ordered to judicial arbitration or mediation. This order is usually made at the Case Management Conference. For more information, see the "Court-Ordered Mediation Information Sheet"

[http://www.riverside.courts.ca.gov/adr/infosheet4crtordered\\_mediation.pdf](http://www.riverside.courts.ca.gov/adr/infosheet4crtordered_mediation.pdf)

**Private Voluntary ADR (for cases not ordered to arbitration or mediation):**

Parties schedule and pay for their ADR process without Court involvement. Parties may schedule private ADR at any time; there is no need to wait until the Case Management Conference. Many Civil Mediation Panel mediators provide reduced-cost "VALUE" mediations when the amount in dispute is \$100,000 or under. For more information, see the "Private Mediation Information Sheet"

<http://www.riverside.courts.ca.gov/adr/infosheet4privatemediation.pdf>

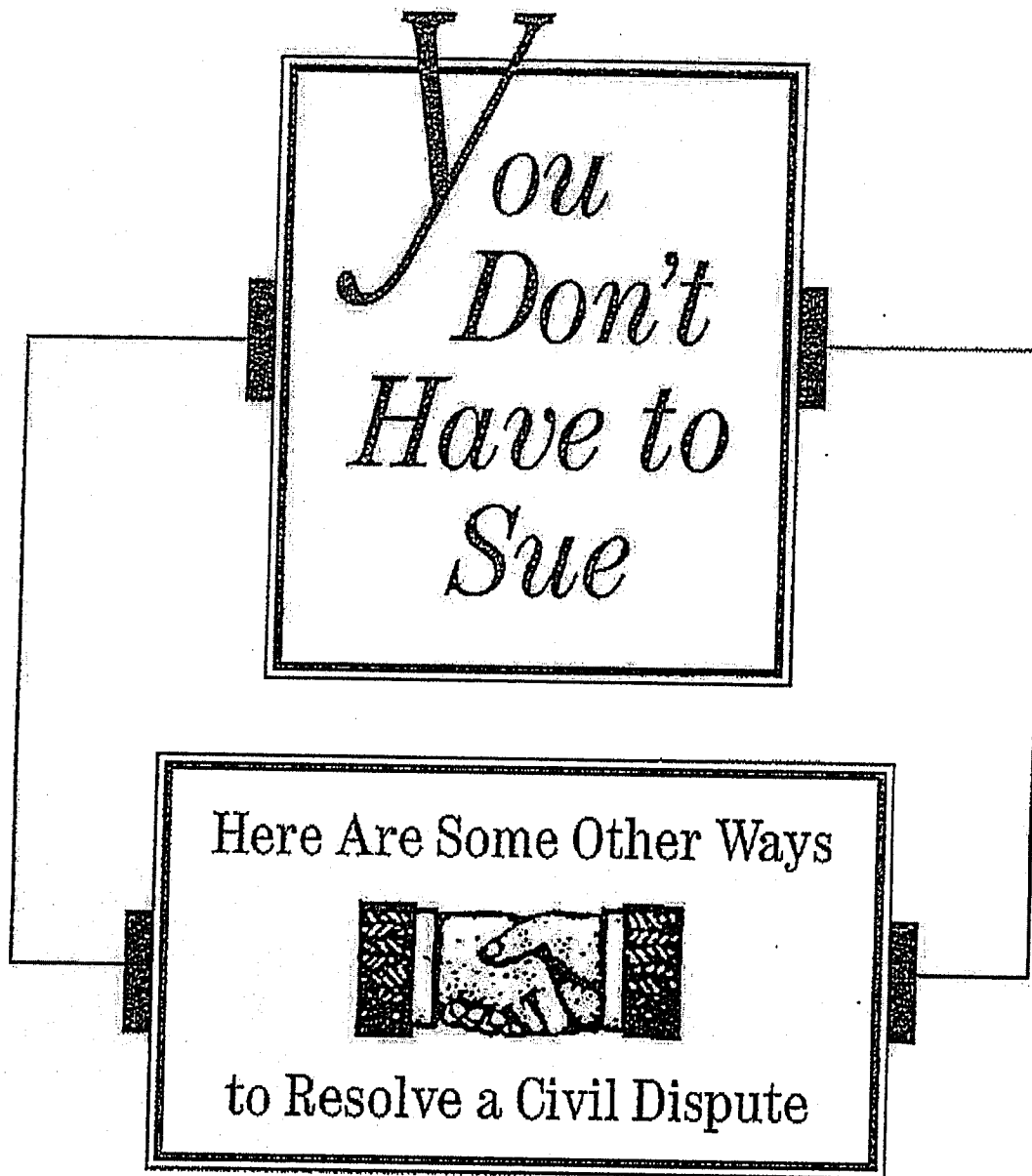
**BEFORE THE CASE MANAGEMENT CONFERENCE (CMC), ALL PARTIES MUST:**

1. Discuss ADR with all parties at least 30 days before the CMC. Discuss:
  - Your preferences for mediation or arbitration. Before selecting mediation, review the information posted here:  
[http://www.riverside.courts.ca.gov/adr/infosheet4crtordered\\_mediation.pdf](http://www.riverside.courts.ca.gov/adr/infosheet4crtordered_mediation.pdf)
  - Your schedule for discovery (getting the information you need) to make good decisions about settling the case at mediation or presenting your case at an arbitration.
2. File the attached "Stipulation for ADR" along with the Case Management Statement, if all parties can agree.
3. Be prepared to tell the judge your preference for mediation or arbitration and the date when you could complete it.

(Local Rule 4.0018)

**RIVERSIDE COUNTY ADR PROVIDERS INCLUDE:**

- The Court's Civil Mediation Panel (available for Court-Ordered Mediation and Private Mediation, including VALUE mediations). See <http://adr.riverside.courts.ca.gov/adr/civil/panelist.php> or ask for the list in the civil clerk's office, attorney window.
- Riverside County ADR providers funded by DRPA (Dispute Resolution Program Act):  
Dispute Resolution Service (DRS) Riverside County Bar Association: (951) 682-1015  
Dispute Resolution Center, Community Action Partnership (CAP): (951) 955-4900



Presented by the  
Judicial Council of California  
and the  
State Bar of California

## Introduction

Did you know that most civil lawsuits settle without a trial?

And did you know that there are a number of ways to resolve civil disputes without having to sue somebody?

These alternatives to a lawsuit are known as alternative dispute resolution (ADR). The most common forms of ADR are mediation, arbitration, and case evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediation, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities, through dispute resolution programs and private neutrals.

## Advantages of ADR

ADR can have a number of advantages over a lawsuit.

- **ADR can be speedier.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money.** Court costs, attorneys fees, and expert fees can be saved.
- **ADR can permit more participation.** The parties may have more chances to tell their side of the story than in court and may have more control over the outcome.

- **ADR can be flexible.** The parties can choose the ADR process that is best for them. For example, in mediation the parties may decide how to resolve their dispute.
- **ADR can be cooperative.** This means that the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- **ADR can reduce stress.** There are fewer, if any, court appearances. And because ADR can be speedier, and save money, and because the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads for years.
- **ADR can be more satisfying.** For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

## **Disadvantages of ADR**

ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be

effective if it takes place before the parties have sufficient information to resolve the dispute.

- The neutral may charge a fee for his or her services.
- If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.
- Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

## **Three Common Types of ADR**

This pamphlet describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

### **• MEDIATION**

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved. The parties do.

Mediation is a cooperative process, in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other, where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Media-

tion also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how each other sees things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or cannot have enough bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

#### • **ARBITRATION**

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is very different from mediation, where the mediator helps the parties reach their own resolution. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Because of the large number of cases awaiting trial in many courts, a dispute normally can be heard much more quickly by an arbitrator than by a judge. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records), rather than by testimony.

There are two kinds of arbitration in California. Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and, normally, is binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. By contrast, a decision by an arbitrator in a case referred by the courts, known as "judicial arbitration," is not binding, unless the parties agree to be bound. A party who does not like the award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to resolve their dispute by themselves, or with the aid of a neutral.

#### • CASE EVALUATION

In case evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments, and makes an evaluation of the case. Each party gets a chance to present the case and hear the other side. This may lead to a settlement, or at least help the parties prepare to resolve the dispute later on.

Case evaluation, like mediation, can come early in the dispute and save time and money.

Case evaluation is most effective when someone has an unrealistic view of the dispute or when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Case evaluation may not be a good idea when it is too soon to tell what the case is worth or when the dispute is about something besides money, like a neighbor playing loud music late at night.

### **Additional Information**

There are several other types of ADR beside mediation, arbitration, and case evaluation. Some of these are conciliation, settlement conferences, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are

most likely to resolve your dispute.

The selection of a neutral is an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

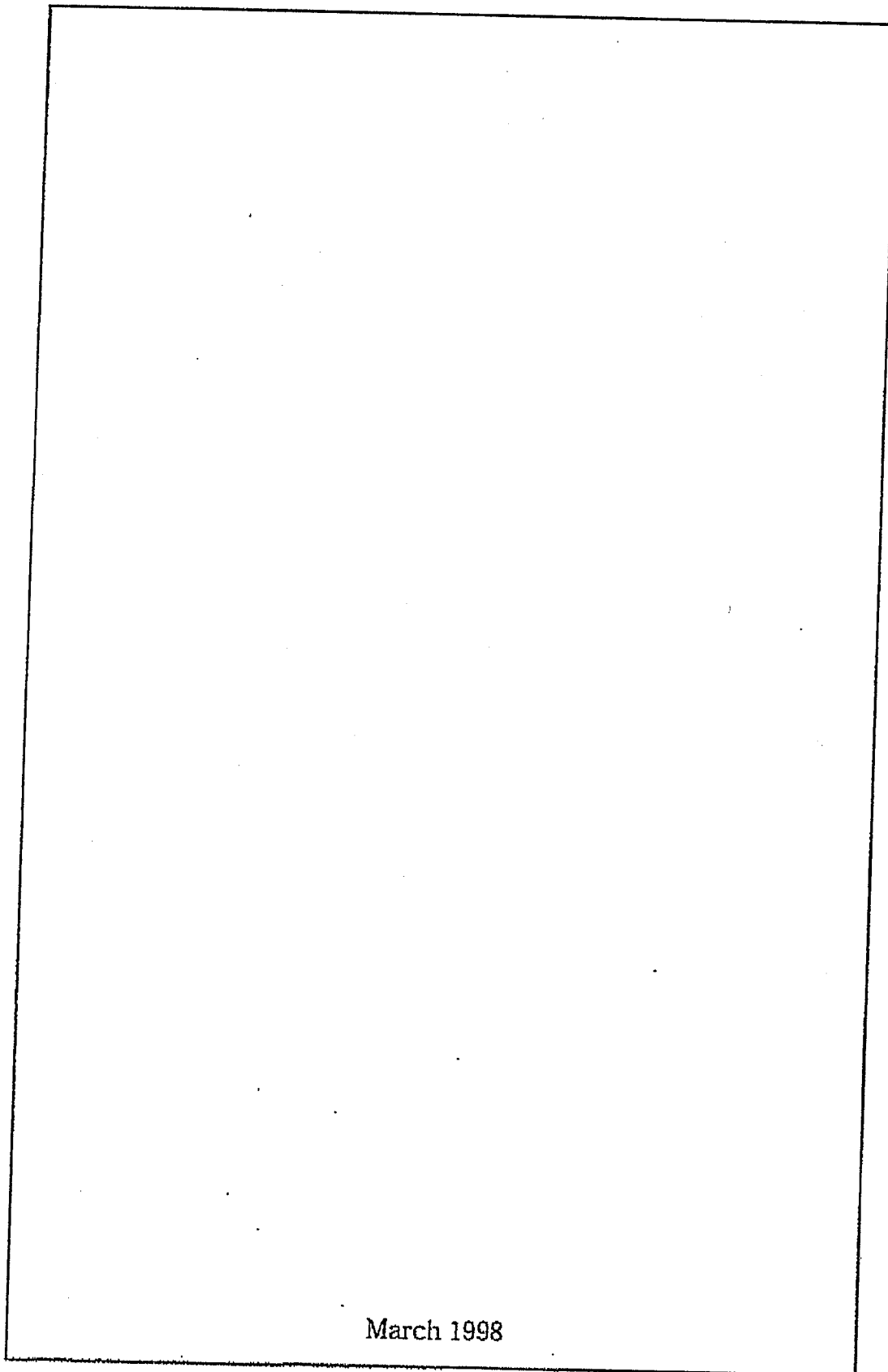
You may wish to seek the advice of an attorney as to your legal rights and other matters relating to the dispute.

### **Whom Do You Call?**

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, 1-800-952-5210, or
- Contact the local bar association, or
- Look in the Yellow Pages under "Arbitrators" or "Mediators."

There may be a charge for services provided by private arbitrators and mediators.



March 1998

# **Exhibit B**

COPY

1 STROOCK & STROOCK & LAVAN LLP  
2 JULIA B. STRICKLAND (State Bar No. 083013)  
3 MARCOS D. SASSO (State Bar No. 228905)  
4 A. R. KACHADOORIAN (State Bar No. 240601)  
5 2029 Century Park East, Suite 1600  
6 Los Angeles, California 90067-3086  
7 Telephone: 310-556-5800  
8 Facsimile: 310-556-5959  
9 lalacalendar@stroock.com

10 Attorneys for Defendant  
11 CITIBANK, N.A.

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

JUL 26 2012

A. Sanchez

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF RIVERSIDE

14 JOAN FRANK,

15 Plaintiff,

16 vs.

17 CITIBANK, NATIONAL ASSOCIATION,  
18 an FDIC insured corporation and DOES 1  
19 through 100 inclusive,

20 Defendants.

Case No. RIC 1209859

[Assigned to the Honorable Pamela A.  
Thatcher, Commissioner, Dept. 4]

ANSWER AND AFFIRMATIVE  
DEFENSES OF DEFENDANT CITIBANK,  
N.A. TO COMPLAINT

STROOCK & STROOCK & LAVAN LLP  
 2029 Century Park East  
 Los Angeles, California 90067-3086

1 Defendant Citibank, N.A. ("Citibank"), for its answer to the Complaint filed by plaintiff  
 2 Joan Frank ("Plaintiff"), responds and alleges as follows:

3 Pursuant to the provisions of California Code of Civil Procedure section 431.30(d),  
 4 Citibank denies, generally and specifically, in the conjunctive and disjunctive, each and every  
 5 allegation contained within the Complaint, and the Complaint as a whole, and further denies that  
 6 Plaintiff has suffered harm as alleged in the Complaint, or at all, and that Citibank has any liability  
 7 whatsoever to Plaintiff as alleged in the Complaint, or at all. Citibank further denies that the relief  
 8 requested by Plaintiff is appropriate and/or that damages were sustained, or that Citibank's conduct  
 9 was unlawful, unfair, fraudulent, negligent, willful, objectionable or unreasonable, or that Citibank  
 10 violated the requirements of any applicable statute. Citibank further denies that by reason of any  
 11 act, fault, carelessness or omission on its part, Plaintiff has been injured, damaged or harmed in any  
 12 way or in any amount whatsoever, or at all, by reason of any acts or omissions of Citibank.  
 13 Citibank denies that Plaintiff is entitled to any actual damages, statutory damages, punitive  
 14 damages, restitution, attorneys' fees and/or costs of suit.

15 **FIRST AFFIRMATIVE DEFENSE**

16 **FAILURE TO STATE A CLAIM**

17 (To All Causes Of Action)

18 1. The Complaint, and each claim and cause of action alleged therein, fails to state  
 19 facts sufficient to constitute a cause of action against Citibank.

20 **SECOND AFFIRMATIVE DEFENSE**

21 **ESTOPPEL**

22 (To All Causes Of Action)

23 2. The Complaint, and each claim and cause of action alleged therein, is barred by the  
 24 conduct, actions and inactions of Plaintiff, which amount to and constitute an estoppel of the causes  
 25 of action and any relief sought thereby.

**THIRD AFFIRMATIVE DEFENSE**

**WAIVER**

(To All Causes Of Action)

3. The Complaint, and each claim and cause of action alleged therein, is barred by the conduct, action and inactions of Plaintiff, which amount to and constitute a waiver of any right or rights Plaintiff may or might have in relation to the matters alleged in the Complaint.

**FOURTH AFFIRMATIVE DEFENSE**

**UNCLEAN HANDS**

(To All Causes Of Action)

4. The Complaint, and each claim and cause of action alleged therein, is barred, in whole or in part, on the grounds that Plaintiff may obtain no relief under the Complaint by reason of the doctrine of unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**

**CONSENT/ACQUIESCENCE**

(To All Causes Of Action)

5. By her own conduct, acts, omissions, contractual promises and agreements, Plaintiff consented to and acquiesced in Citibank's conduct.

**SIXTH AFFIRMATIVE DEFENSE**

**LACHES**

(To All Causes Of Action)

6. Plaintiff unreasonably has delayed taking action in connection with the alleged claims, causing substantial prejudice to Citibank, and such claims therefore are barred pursuant to the doctrine of laches.

**SEVENTH AFFIRMATIVE DEFENSE**

**FAILURE TO MITIGATE**

(To All Causes Of Action)

7. Although Citibank denies that Plaintiff has suffered any loss, to the extent that loss has been suffered, Plaintiff has failed to mitigate that loss.

STROOCK & STROOCK & LAVAN LLP  
2029 Century Park East  
Los Angeles, California 90067-3086

**EIGHTH AFFIRMATIVE DEFENSE**

**RATIFICATION**

(To All Causes Of Action)

8. The Complaint, and each claim and cause of action alleged therein, is barred by the conduct, actions and inactions of Plaintiff under the doctrine of ratification.

**NINTH AFFIRMATIVE DEFENSE**

**DISCHARGE OF DUTY**

(To All Causes Of Action)

9. Citibank alleges that it has appropriately, completely and fully performed and discharged any and all obligations and legal duties, if any, arising out of the matters alleged in the Complaint, including, but not limited to, the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. (the "FCRA"), the California Consumer Credit Reporting Agencies Act, Cal. Civ. Code § 1785, et seq. (the "CCRAA"), and California Business and Professions Code § 17200, et seq. (the "UCL").

**TENTH AFFIRMATIVE DEFENSE**

**SPECULATIVE DAMAGES**

(To All Causes Of Action)

10. The Complaint, and each claim and cause of action alleged therein, is barred, in whole or in part, on the grounds that Plaintiff seeks damages that are too speculative to permit recovery.

**ELEVENTH AFFIRMATIVE DEFENSE**

**PRIVILEGED CONDUCT**

(To All Causes Of Action)

11. The Complaint, and each claim and cause of action alleged therein, is barred, in whole or in part, on the grounds that Citibank's conduct was subject to a privilege and/or a qualified privilege so as to bar any recovery by Plaintiff.

**TWELFTH AFFIRMATIVE DEFENSE**

**ADEQUATE LEGAL REMEDY**

(To All Causes of Action)

12. Each claim and cause of action of the Complaint that alleges a request for injunctive and equitable relief is barred because Plaintiff has an adequate legal remedy.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**NO INJURY**

(To All Causes of Action)

13. The Complaint, and each claim and cause of action alleged therein, is barred, in whole or in part, because Plaintiff suffered no injury as a result of any act or practice of Citibank.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**CHOICE OF LAW**

(To All Causes of Action)

14. The Complaint, and each claim and cause of action alleged therein, is barred, in whole or in part, to the extent it is based on law other than the governing law contained in the parties' credit card agreement.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**STATUTE OF LIMITATIONS**

(To All Causes Of Action)

15. The Complaint, and each cause of action therein, is barred by the applicable statutes of limitation, including, without limitation, 15 U.S.C. § 1681p, Cal. Civ. Code § 1785.33 and Cal. Bus. & Prof. Code § 17208.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**SETOFF/OFFSET**

(To All Causes Of Action)

16. The Complaint, and each claim and cause of action set forth therein, is barred, in whole or in part, on the grounds that Citibank is entitled to an offset or setoff of any damages claimed by Plaintiff based on the amounts owed on Plaintiff's account.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**FEDERAL PREEMPTION**

(To All Causes Of Action)

17. The Complaint, and Plaintiff's state law claims alleged therein, are barred, in whole or in part, by the doctrine of federal preemption.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**NO STANDING**

(To Third Cause Of Action)

18. The Complaint, and the Third Cause of Action alleged therein, is barred, in whole or in part, on the grounds that because Plaintiff lost no money or property as a result of any conduct by Citibank, Plaintiff lacks standing to allege the Third Cause of Action.

**NINETEENTH AFFIRMATIVE DEFENSE**

**RESERVATION OF RIGHT TO ASSERT OTHER DEFENSES**

(To All Causes Of Action)

19. Citibank expressly reserves the right to assert such other and further affirmative defenses as may be appropriate.

WHEREFORE, Citibank prays for judgment as follows:

1. That Plaintiff take nothing by the Complaint;
2. That the Complaint be dismissed with prejudice;

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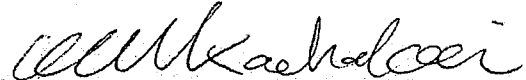
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3. That Citibank recover its attorneys' fees and costs herein; and
4. For such other and further relief as the Court deems just and proper.

Dated: July 26, 2012

STROOCK & STROOCK & LAVAN LLP  
JULIA B. STRICKLAND  
MARCOS D. SASSO  
ALEXANDRIA KACHADOORIAN

By



Alexandria Kachadoorian

Attorneys for Defendant  
CITIBANK, N.A.

STROOCK & STROOCK & LAVAN LLP  
2029 Century Park East  
Los Angeles, California 90067-3086

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss  
 COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California, over the age of eighteen years, and not a party to the within action. My business address is: 2029 Century Park East, Suite 1800, Los Angeles, California 90067-3086.

On July 26, 2012, I served the foregoing document(s) described as: **ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT CITIBANK, N.A. TO COMPLAINT** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Scott J. Sagaria  
 Elliot W. Gale  
 Sagaria Law, P.C.  
 333 West San Carlos Street, Suite 1750  
 San Jose, CA 95110

☐ (VIA PERSONAL SERVICE) By personally delivering the document(s) listed above to the person(s) at the address(es) set forth above.

☐ (VIA U.S. MAIL) In accordance with the regular mailing collection and processing practices of this office, with which I am readily familiar, by means of which mail is deposited with the United States Postal Service at Los Angeles, California that same day in the ordinary course of business, I deposited such sealed envelope, with postage thereon fully prepaid, for collection and mailing on this same date following ordinary business practices, addressed as set forth below.

☐ (VIA FACSIMILE) By causing such document to be delivered to the office of the addressee via facsimile.


☒ (VIA OVERNIGHT DELIVERY) By causing such envelope to be delivered to the office of the addressee(s) at the address(es) set forth above by overnight delivery via Federal Express or by a similar overnight delivery service.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 26, 2012, at Los Angeles, California.

Regina Harcourt  
 [Type or Print Name]

  
 [Signature]

**PROOF OF SERVICE**

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } ss

I am employed in the County of Los Angeles, State of California, over the age of eighteen years, and not a party to the within action. My business address is: 2029 Century Park East, Suite 1800, Los Angeles, California 90067-3086.

On July 27, 2012, I served the foregoing document(s) described as: **NOTICE OF REMOVAL** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Scott J. Sagaria  
Elliot W. Gale  
Sagaria Law, P.C.  
333 West San Carlos Street, Suite 1750  
San Jose, CA 95110

☐ **(VIA PERSONAL SERVICE)** By causing to be delivered the document(s) listed above to the person(s) at the address(es) set forth above.

☐ **(VIA U.S. MAIL)** In accordance with the regular mailing collection and processing practices of this office, with which I am readily familiar, by means of which mail is deposited with the United States Postal Service at Los Angeles, California that same day in the ordinary course of business, I deposited such sealed envelope, with postage thereon fully prepaid, for collection and mailing on this same date following ordinary business practices, addressed as set forth below.

☐ **(VIA FACSIMILE)** By causing such document to be delivered to the office of the addressee via facsimile.

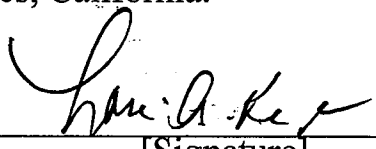
☒ **(VIA OVERNIGHT DELIVERY)** By causing such envelope to be delivered to the office of the addressee(s) at the address(es) set forth above by overnight delivery via Federal Express or by a similar overnight delivery service.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 27, 2012, at Los Angeles, California.

Lori A. Reed  
\_\_\_\_\_  
[Type or Print Name]

  
\_\_\_\_\_  
[Signature]

NOTICE OF REMOVAL

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Virginia A. Phillips and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

**EDCV12- 1250 VAP (VBKx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☒ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.